

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of:)	
)	
Telecommunications Services Inside Wiring)	CS Docket No. 95-184
)	
Customer Premises Equipment)	
)	
Implementation of the Cable Television)	MM Docket No. 92-260
Consumer Protection and Competition Act of)	
1992: Cable Home Wiring)	
)	

COMMENTS OF VERIZON¹ ON CABLE WIRING RULES

The Commission should again recognize that, as a practical matter, cable wiring embedded in sheet rock is “physically inaccessible” for purposes of determining the demarcation point in a multiple dwelling unit (“MDU”).² See 47 C.F.R. § 76.5(mm).

The Commission’s cable wiring rules protect the right of competitors to access the existing wiring owned by incumbent multichannel video programming distributors (“MVPDs”) in an MDU at the “demarcation point.” See 47 C.F.R. § 76.802(j). The rules define the demarcation point in an MDU as “a point at (or about) twelve inches outside of where the cable wire enters the subscriber’s dwelling unit, or, where the wire is physically inaccessible at that point, the closest practicable point thereto that does not require access to the individual subscriber’s dwelling unit.” 47 C.F.R. § 76.5(mm)(2).

¹ The Verizon companies (“Verizon”) include Verizon Avenue—an affiliate that provides communications and video services to residents of multiple dwelling units—and the local exchange carriers affiliated with Verizon Communications Inc., listed in Attachment A.

² The Commission decision on review is *Telecommunications Services Inside Wiring; Customer Premises Equipment*, First Order on Reconsideration and Second Report and Order, 18 FCC Rcd 1342 (2003) (“*Wiring Order*”).

For purposes of this rule, cable wiring is “physically inaccessible” where access “(i) [w]ould require significant modification of, or significant damage to, preexisting structural elements, and (ii) [w]ould add significantly to the physical difficulty and/or cost of accessing the subscriber’s home wiring.” 47 C.F.R. § 76.5(mm)(4). In the *Wiring Order*, the Commission correctly concluded that requiring a competing cable provider to cut into sheet rock walls and ceilings in order to provide cable service to a unit in an MDU would “add[] significantly to the physical difficulty and cost of wiring an MDU.” *Wiring Order* ¶ 53. When viewed from any practical perspective—whether inconvenience to MDU owners and residents, economic burden, or safety risks—the Commission was clearly correct in reaching these conclusions, and the Commission should again decide that cable wiring embedded in sheet rock is physically inaccessible to competing cable providers.

1. The Inconvenience to MDU Owners and Residents from Cutting Into Sheet Rock to Access Cable Wiring Makes Such Wiring Inaccessible for Practical Purposes.

If companies seeking to compete with incumbent MVPDs are required to cut through sheet rock to access or replace the cable wiring to individual subscribers’ units within MDUs, the resulting inconvenience will prevent MDU owners from allowing—and prevent MDU residents from seeking—cable service from such competitors. That result would inhibit meaningful competition for cable services for millions of Americans living in MDUs.

As explained in the Declaration of Kelley Dunne (“Dunne Declaration”) that is filed together with these comments, cutting through and repairing sheet rock walls and ceilings in order to install cable wiring is a source of significant inconvenience for MDU

owners and residents alike. MDUs are typically multi-level buildings in which individual units share many adjoining walls. Dunne Declaration ¶ 3. When MDUs are constructed, inside wiring is generally run without concern for the path that wiring will take to get to a particular unit. *Id.* Moreover, rarely is attention paid to ensuring post-construction, ready-access to the wiring for particular units, such as through “chase ways.” *Id.* Therefore, locating and replacing the embedded cable wiring for a particular unit is no easy task.

As a result of these characteristics of MDUs, running new cable wiring behind the sheet rock in an MDU is invasive, often requiring access not only to the particular unit seeking new cable service, but also to one or more of the abutting units. *Id.* ¶ 4. For example, in order to run cable wiring to a unit on the second floor of a three-story MDU, the company installing the wiring might require access to the units above, below, or beside the unit seeking service in order to “fish” the wire through the interior walls or between floors of the MDU—a process that could require cutting into the sheet rock walls or ceilings of those neighboring units in order to complete the installation. *Id.* Moreover, this process may become even more difficult when, as is often the case, the walls in adjoining units do not correspond with each other, thereby requiring additional modification of the structures in order to accommodate the new wiring. *Id.*

Rather than dealing with these complications, MDU owners generally will not permit new wiring to be installed where doing so requires going behind sheet rock in order to replace or connect to embedded wiring. *Id.* ¶ 5. Similarly, MDU residents understandably will be hesitant to seek new cable services where installation would require these types of inconveniences and hardships for themselves and their neighbors.

In the *Wiring Order*, the Commission appropriately took account of these practical considerations in deciding that wiring embedded in sheet rock in an MDU is “physically inaccessible” to the competitors of an incumbent MVPD. Any contrary rule would be a significant impediment to increased competition for cable services for MDU residents.

2. The High Costs to Competing Cable Providers and Consumers of Accessing Wiring Behind Sheet Rock Discourage Competition.

Another substantial obstacle for competitors to MVPDs if they are required to replace cable wiring that is embedded in sheet rock is the added costs associated with any such installation. In order to replace wiring embedded in sheet rock, the cable installer would be required to cut through the sheet rock, replace the wiring, replace the sheet rock, spackle, sand, and paint/wallpaper the wall—all to the satisfaction of the MDU owners, managers and residents and all in compliance with applicable building and fire codes (discussed more below). Dunne Declaration ¶ 6. Moreover, most cable installers are not currently trained or qualified to perform these tasks. *Id.* So if competing cable companies are required to go behind sheet rock, they will need either to perform extensive additional training for cable installers or to hire additional employees or contractors to perform these services, all at significant costs that are likely to keep competing cable providers out of MDUs and/or to increase significantly the costs for cable subscribers living in MDUs. *Id.*

Because, as explained below, Verizon does not generally replace telephone or cable wiring that is embedded in sheet rock, it is unable to provide the Commission with data concerning the costs it would incur if it were required to replace embedded wiring. However, given the likelihood that repairing sheet rock would require multiple trips to the premises in order to cut into the sheet rock to run the wiring and then again to replace,

patch, sand, tape and paint/wallpaper the sheet rock—and given the necessity of training installers in these skills or of hiring contractors—the costs would be considerable.

Accordingly, replacing cable wiring in sheet rock walls is an expensive proposition that is likely to deter entrance of competing cable providers into MDUs and to shield incumbent MVPDs from meaningful competition.

3. **Safety Concerns for Cable Installers and MDU Residents Would Require Additional Training and Expense.**

In addition to the inconvenience and cost issues, the Commission should stand by its earlier sheet rock decision in its *Wiring Order* in light of safety concerns for both employees of competing cable companies and MDU residents and in light of the additional training and expenses that would be required in order adequately to address those concerns.

First, requiring competing cable providers to access cable wiring embedded in sheet rock puts employees of those companies at some risk to their personal safety, unless they are adequately trained, because the walls in which cable wiring is embedded may also contain other, more dangerous, types of wiring. Dunne Declaration ¶ 8. When an installer cuts into a sheet rock wall, he or she risks electrocution by cutting into electrical wiring. *Id.* Similarly, the installer risks cutting through less hazardous wiring (e.g., wiring for fire alarms, smoke detectors, security cameras, telephone cables, or heating and air condition controls) or cutting into the MDU's plumbing. *Id.* In order to avoid these problems, competing cable providers would have to incur additional expenses in order to provide additional training to installers on the proper methods for working with sheet rock. Moreover, even with training, incidents along these lines are inevitable and

would only exacerbate the frustration and costs to both the cable company and the owners and residents of an MDU.

Second, cutting into and patching sheet rock walls and ceilings compromises the integrity of fire resistant sheet rock, thereby either posing an unnecessary safety hazard for MDU residents (if left unremedied) or requiring additional training and expense in order to restore the integrity of the sheet rock. Local building codes set out fire resistance standards for sheet rock or other materials used in the partitions, floor/ceilings, roof/ceilings, beams and columns of MDUs—areas likely to require cut work if embedded cable wiring is to be accessed. *See, e.g., George M. Kutcher, Jr., What's a Fire Resistance Rating?*, National Gypsum Company Tech Talk, at www.gold-bond.com/resources/techtalk/rating.html. Therefore, if cable installers cut into sheet rock walls or ceilings, they will be required to take additional precautions and incur additional expense to insure that sheet rock is properly repaired in accordance with building code standards. Dunne Declaration ¶ 9.

Restoring sheet rock in this manner would add considerably to the expense of installing or accessing wiring. For example, while noting that “[s]mall holes . . . can be repaired by patching” in order to maintain the integrity of the fire-rated partition, a bulletin issued by the Gypsum Association cautions that “[i]f mechanically or environmentally caused damage covers more than 100 square inches in 100 square feet of gypsum system area, all materials in the damaged area back to the original framing must be removed to make the repair.” Gypsum Association, *Repair of Fire-Rated Gypsum Board Systems*, Special Recommendations No. GA-225-96, at www.gypsum.org/securepubs/GA-225-96.pdf. Therefore, if a cable installer has to cut a 10-inch square into

a sheet rock wall in order to install cable wiring, replacement of a much larger section of the wall may be required in order to satisfy fire safety standards. And if multiple holes must be cut into sheet rock in order to fish the wiring to a particular unit, the costs would multiply accordingly. The Commission should avoid this costly and unnecessary result by reaffirming the sensible position it adopted in the *Wiring Order* and again recognizing that cable wiring embedded in sheet rock is physically inaccessible.

4. Established Industry Practice with Inside Telephone Wiring Confirms that Wiring Embedded in Sheet Rock Is Inaccessible.

Finally, established industry practice in the context of telephone wiring confirms that the many practical difficulties of installing or accessing wiring behind sheet rock walls or ceilings make such wiring inaccessible for all practical purposes. In order to avoid the problems with accessing wiring that is behind sheet rock in an MDU, Verizon's state telephone tariffs generally provide that Verizon will only provide concealed telephone wiring in MDUs where "reusable means" for accessing the wiring are installed.³ Verizon requires such "reusable means" for accessing concealed telephone wiring precisely in order to avoid the many problems discussed above, and these requirements in the various state tariffs reflect the reality that accessing wiring that is embedded within sheet rock is impractical and undesirable from the perspective of MDU owners, residents, and service

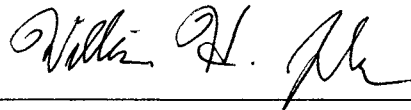
³ For example, Verizon's tariff in Massachusetts addresses "concealed wiring" by stating: "For the initial establishment of service, the Telephone Company installs concealed wiring in residential buildings during construction where post-construction wiring is not feasible and where, if riser cable plant is required, the customer or builder provides conduit or other *reusable means satisfactory to the Telephone Company to reach each floor and each suite on each floor . . .*" New England Telephone and Telegraph Company, Tariff DTE MA No. 10, Exchange and Network Services, § 2.2.2(A) Concealed Wiring (emphasis added) available at https://retailgateway.bdi.gte.com:1490/tariffs.asp?optState=MA&entity=I*&type=T*&typename=IT&tims_Status=E.

providers. The Commission should recognize likewise that cable wiring that is embedded in sheet rock is, for all practical purposes, physically inaccessible to competing cable providers.

Conclusion

For the reasons discussed above, the Commission should again recognize that cable wiring that is embedded in sheet rock or other similar material is physically inaccessible to competing cable providers for purposes of determining the demarcation point for cable wiring.

Respectfully submitted,



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THE VERIZON TELEPHONE COMPANIES

The Verizon telephone companies are the local exchange carriers affiliated with Verizon Communications Inc. These are:

Contel of the South, Inc. d/b/a Verizon Mid-States
GTE Southwest Incorporated d/b/a Verizon Southwest
The Micronesian Telecommunications Corporation
Verizon California Inc.
Verizon Delaware Inc.
Verizon Florida Inc.
Verizon Hawaii Inc.
Verizon Maryland Inc.
Verizon New England Inc.
Verizon New Jersey Inc.
Verizon New York Inc.
Verizon North Inc.
Verizon Northwest Inc.
Verizon Pennsylvania Inc.
Verizon South Inc.
Verizon Virginia Inc.
Verizon Washington, DC Inc.
Verizon West Coast Inc.
Verizon West Virginia Inc.

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DECLARATION OF P. KELLEY DUNNE

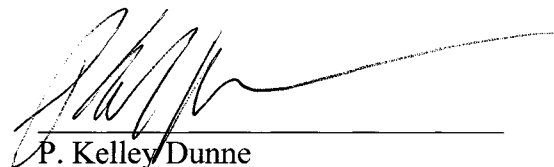
1. My name is P. Kelley Dunne, and I am the Executive Director for Network Operations for Verizon Avenue, an affiliate of Verizon Communications Inc. (“Verizon”) that focuses on providing communications and video services to residents of multiple dwelling units (“MDUs”). I am submitting this declaration in support of Verizon’s Comments on Cable Wiring Rules in the above-captioned proceeding.
2. If a cable company were required to cut through and repair sheet rock walls and ceilings in order to install cable wiring to a unit in an MDU, those actions would significantly inconvenience MDU owners and residents alike.
3. MDUs are typically multi-level buildings in which individual units share many adjoining walls. When MDUs are constructed, inside wiring is generally run without concern for the path that wiring will take to get to a particular unit. Moreover, rarely is attention paid to ensuring post-construction, ready-access to the wiring for particular units, such as through “chase ways.” Therefore, locating and replacing embedded cable wiring for a particular unit is a difficult task.

4. As a result of these characteristics of MDUs, installing cable wiring within an MDU is invasive, often requiring access not only to the particular unit seeking new cable service, but also to one or more of the abutting units. For example, in order to run cable wiring to a unit on the second floor of a three-story MDU, the company installing the wiring might require access to the units above, below, or beside the unit seeking service in order to “fish” the wire through the interior walls or between floors of the MDU—a process that could require cutting into the sheet rock of those neighboring units in order to complete the installation. Moreover, this process may become even more difficult when, as is often the case, the walls in adjoining units do not correspond with each other, thereby requiring additional modification of the structures in order to accommodate the new wiring.
5. Rather than facing these complications, MDU owners generally will not permit new wiring to be installed where doing so requires going behind sheet rock in order to replace or access embedded wiring.
6. If a cable company were required to go behind sheet rock walls or ceilings in order to install cable wiring in an MDU, the costs, both in terms of repair costs and training, would be substantial. In order to install cable wiring in sheet rock, the cable installer would be required to cut through the sheet rock, install the wiring, replace the sheet rock, spackle, sand, and paint/wallpaper the wall—all to the satisfaction of the MDU owners, managers and residents and all in compliance with applicable building and fire codes. Moreover, most cable installers are not currently trained or qualified to perform these tasks. Accordingly, in order to run new wiring behind sheet rock in MDUs, competing cable companies would be required either to perform extensive

new training for cable installers or to hire additional employees or contractors to perform these services, all at significant costs.

7. Moreover, requiring cable companies to install cable wiring behind sheet rock presents safety issues for both installers and MDU residents, and additional training and expense would be required in order to address these concerns.
8. Requiring competing cable providers to access cable wiring embedded in sheet rock puts employees of those companies at some risk to their personal safety because the walls in which cable wiring is embedded also contain other, more dangerous, types of wiring. When an installer cuts into sheet rock, he or she risks electrocution by cutting into electrical wiring. Similarly, the installer risks cutting through less hazardous wiring (*e.g.*, wiring for fire alarms, smoke detectors, security cameras, telephone cables, or heating and air condition controls) or cutting into the MDU's plumbing. In order to minimize these risks, additional training for cable installers would be required.
9. An additional safety concern relates to the fire resistance of sheet rock. In order to maintain the integrity of fire resistant sheet rock, and in order to ensure compliance with building and fire safety codes, additional training would be required for cable installers. Moreover, the cable company could incur additional expense in replacing sheet rock in order to insure the integrity of damaged sheet rock.

I declare under the penalty of perjury that facts stated herein are true and correct to the best of my knowledge, information, and belief.

A handwritten signature in black ink, appearing to read 'P. Kelley Dunne', is written over a horizontal line.

P. Kelley Dunne
Executive Director, Network Operations
Verizon Avenue

Dated: November 15, 2004